Cover Page

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00-1697 (1)

No.

IN THE

Supreme Court of the United States

CHRISTIAN WILLIAMS

Petitioner

v.

[illegible]

On Petition For Writ Of Certiorari

To The United States Court of Appeals [illegible]

PETITION FOR WRIT OF CERTIORARI

Christian Williams
Pro se
[illegible]
[illegible] NC [illegible]
1-919-790-4207

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SUPREME COURT, U.S.

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42 pp

[illegible] – 2.02 cm – 0.8"

[illegible] – 2.5 cm = 0.8"

[illegible] .12" = 1.7 cm

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[illegible] = [illegible]

[illegible]

The questions presented in this case
to the requisite framework required, in
plaintiff in a Title VII discrimination
treatment case to make prima facie case. They concern the disp
among the various circuit court of appea
plaintiffs could make out a prima facie case, in
Douglas and its progeny. They also concern the differing
among the various circuit courts, as
of summary judgment not present in F.
Title VII cases. Finally, these questions seek
find out under what circumstances or f
reasons, a circuit court of appeals could
appellant a hearing and to hear en banc
[illegible] 3-Judge panel ignores
[illegible] and finders as favorable to an appellant
[illegible] "right" of appeal? The re
case will undoubtedly assist both parties in
courts, ~~in the circuits, conflict under Title VII. He~~
Title VII cases.

List of Parties:

6

(I) Questions Presented Rule 14.

Rules of Supreme Court

Brief Statement:

(II) Whether, in a ~~racial discrimination c~~ under ~~the~~ disparate treatment ~~Clause~~ Rights Act of 1964, ~~Title VII~~, the and presumptions of McDonnell-Douglas ~~Inc. Texas Department of Community Affai~~ ~~Tran. and St. Mary's Honor Center v. Hick~~

(A) What Constitute a prima facie case treatment Clause of the Civil Right Act

(C) Whether, a United States Court of Appe an applicant's petition for a rehearing for banc, combined, on the basis of a of its members? when [illegible] law [illegible] Circuit

are overlooked

(D) Whether the Standards and qualified for granting a m judgement as a matter of law, pursua 56, is the same as ~~the Standards~~ fo a Cross-motion summary judgement same Rule?

(B) What else can an employee do, when in the course of, they are faced with actions perpetrated by their employe to be ~~offensive~~, physically & emotionally unreasonably to work harassing [illegible] (1) [illegible] type of such

List of Parties:

1. Petitioner,
Christian Williams,
Pro Se,
4709 Draper Road,
Raleigh, NC 27616
1-919-790-1407

Respondent,
Corporate Express Delivery Systems,
Counsel of Record for Respondent,
Richard F. Kane,
Kimberly Q Charchenis,
McGuire Woods Battle & Boothe, LLP
3700 Bank of America Plaza,
101 South Tryon Street,
Charlotte, NC 28280-0001.

6 c. Table of Contents:

(I.) Questions presented for Review.

(ii) List of parties to this proceeding in Circuit Court of Appeals.

(iv) Table of Cited Cases

(V) Jurisdiction [illegible] Rules of Supreme Court

(vi) Federal Statutes / Authorities involved

(iii). Table of Contents

(vii) Stament of the Case.

(VIII) Arguments for Granting of Writ.

(VIIII) Conclusion

(IX.) Appendix. District Court Judgment, A-
3-Judge panel: Opinion, A-
En Banc [illegible] A-

D.) Table of Cited Cases. ETC - REARR

(a) McDonnell-Douglas V. Green, 411 U.S. 792 (

b) Texas Department of Community Affairs V. 450 U.S. 248, 254 (1981).

(c) St. Mary's Honor V. Hicks, 509 U.S. 502 (1

(d) Reeves V. Sanderson Plumbing Products, Inc. 133 (2000).

(e) Kolstad V. American Dental Association, 52

(f.) Faragher V. City of Boca Raton, 524 U

(g.) Harris V. Forklift Systems, Inc. 510 U.S. 1

(h.) O'connor V. Consolidated Coin Caterers (308 (1996)

(i.) Teamsters V. U.S, 431 U.S. 324, 358 (1977)

(E.) Jurisdiction on Writ of Certiorari

This petition for a Writ of Certiorari is
pursuant to rule 10, of the Rules of t
court of the United States; specific
decisions of the 4th Circuit court, conf
those of the other Circuit court of appe
cases, (2) the decision to "deny rehear
hearing en banc, on the basis of a
represents a departure from the accep
course of judicial proceeding.

(f.) Federal Statutes/Authorities Involved

42 U.S.C 2000e et seq.

Title 28, U.S.C, annotated.
Federal Rules of Evidence
Federal Rules of Civil Procedure (F.R.Civ.P.)

Federal Rules of Appellate Procedure (F.R.App.P.)

Rules of the Supreme Court of the United States
Local Rules of the Ninth Circuit U.S. Court of Appeals

(IV.)

~~footnote point~~

~~the~~ Participation clause of ~~the~~ sec 704(a) covers all who participate in court
~~See also~~ Crosshorn v. U
51 F. Supp 9 (M.D. Tenn 1970) ~~cited~~
for ~~the~~ ~~the~~ discrimination tests
Blumer v. Lawyers Coop publishi

footnote: 9 point text

~~See also expression clause~~
~~[illegible] in [illegible]~~
~~[illegible] lawsuit~~

FOOTNOTE 1

The participation clause (and opposition clause) of retali
sec. 704(a) covers "all who participate in
the Civil Rights Act of 1964,

Sw
Chance
Hill

see Hunter v. Allis Chalmers Corp., Eng. Div., 797 F.2d
Cinecel v. Fedorison Construction Co. 237 F.3d 1208,

(viii) Statement of Case and reasons

This petition on a writ of certiorari is filed herein of the judgment of the United States Court for the Fourth Circuit, entered in this action on and March 19, 2001, see A-15. The original case filed U.S. District Court for the Eastern District Apr. 12, 1999 under the disparate treatment the Civil Rights Act of 1964, Title VIII, 22 et. seq., alleging race discrimination in the The claim of retaliation was made in con and as a corollary to this case under the Code of the Civil rights act of 1991 sec. 1981a & 706(g) inter alia, back pay and punitive and compensatory there is intent and a reckless disregard for a federally protected civil rights.

In this case, the evidence shows that petitioner, Christine Williams was as a carrier on Route 44 for [illegible] after about 1 year of service for filing on April 12, 1999 (one day earlier)

Route 44 was an overnight shift that and ended at 5:30am. Petitioner who is [illegible] was working [illegible]

supervised by several individuals incl
Newton, human Resources Manager and seco
command at respondents Cary location an
General Manager and the highest ranking man
location, both of whom are white. Petitioner's duties on Route 441,
Route 62, required him to pick up and
packages in the following cities towns, c
counties in North Carolina: Cary, Durham
Raleigh/RDU Airport, Rocky Mount, Wils
Washington and Tarboro/Greenville Count
The evidence in this case shows that be
about July 13, 1998, while in respondent
and in the normal course of his business
suffered numerous acts of adverse disch
including, inter alia, intimidation, victimization, potential in
and retaliation. ~~See~~ Petitioner co
the evidence shows that these acts
perpetrated against similarly situated
outside protected class. Thus, the cumulative
Ugarno v. Olsten Corp., 110 F.3d 210 (2nd Cir. 1997). The acts constitute discrimination in the
that these acts were persistent, intentional
and perpetrated with a reckless indifference
petitioner's federally protected civil rights
of Title VII.
Specifically, the evidence shows several in
petitioner was called at home by Sharon

C

essential

stolen

home → to inquire about packages that he had
might be fore. This despite the fact that at
petitioner's route-shift, he was required to
signed original of his route sheet indicating
of delivery, amount of delivered packages and
delivered packages. Everytime Sam Newton pl
he threatened petitioner with police arrest
back a ~~little~~ later to say that he had ran
missing packages. Never once did Sam New
petitioner. The evidence also indicates that
occasions, Jim Hoyle who also called and Eng
missing company route keys - the impo
understood is, [illegible] that petitioner could ~~go to~~
to go back to base business and steal some
Jim [illegible] threatened petitioner with police ar
Evidence shows that at none of these inci
petitioner reprimanded and later, Jim Hoyle
that the keys had been found. The evidence
several instances where petitioner was accused by sup
company [illegible] humiliation, he was never repri
Because these actions were pervasive, peti
petitioner was accused of having done something
Thus managers and supervisors retract the
and because he was never reprimanded, a
[illegible] because that they were subtly
intimidating victimize and personally engin

Infact, the evidence shows that about NO petitioner overheard a conversation between two supervisors, both of whom are white; (Rowen and [illegible] apparently plotting to incriminate him by [illegible] in his van to get [illegible] evidence from the car of [illegible] in [illegible] with the [illegible] there was a drug search. The search took place at that [illegible] in the City [illegible] Employment with respondent. Evidence in the case petitioner filed a complaint with Sam Newton [illegible] about the [illegible] that took 3 days before [illegible] discuss. Rowen [illegible] accused him [illegible] it.

Because these allegations [illegible] on a petition filed [illegible] NCPL [illegible] said complaint however the evidence [illegible] On a date February 12, [illegible] with the US-EEOC [illegible] and was interviewed on Feb. 26 [illegible] Again the EEOC [illegible] information about petitioner and respondent. [illegible] that by the time the [illegible] Sam [illegible] et al had been notified of the EEOC [illegible] RACE [illegible] the [illegible] cases [illegible] February 19, 1999, petitioner [illegible]

concerned, called the city of Tarboro police dept. the Edgecombe County Sheriff's dept. and Spike Boykin for 19 months and Capt. Smith for [illegible] respectively. The evidence [illegible] these two [illegible] [illegible] on [illegible] Someone [illegible] [illegible] a [illegible] [illegible] Each call [illegible] [illegible] no [illegible]

[illegible]

Moreover, the [illegible] on April [illegible] [illegible] [illegible] his [illegible] 1 day after [illegible] A [illegible] and discovery commenced. On [illegible] provide with [illegible] Response [illegible]

March 27, 2000, [illegible] and denied [illegible]. -5-

* Rosebud v. Garrison, 528 F.2d 309, 310 (4th Cir. 19

Petitioner filed a timely appeal on an int
pursuant to the Fifth Circuit's Local Rule 34
Judge panel entered judgement on Feb. 6,
The District Court [illegible] Petitioner filed a F
[illegible]
to F.R.A.P 35 & 40 [illegible]
denied [illegible]
on March 19 . On or about March 30, 2011
Appellate Court and [illegible]
[illegible]

C (viii) Argument:

(A) The court of appeals erred in stating [illegible] did not establish a prima facie case [illegible] McDonnell-Douglas, _____ [illegible]

Indirect → see B(1)

Under Title VII of the Civil [illegible] "It shall be unlawful employment practice [illegible] to refuse to hire or to discharge any individual, or otherwise discriminate against any individual [illegible] with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin." 42 U.S.C. Sec. 2000e-2(a)(1)

Recognizing the difficult and sensitive [illegible] discrimination [illegible] framework that [illegible] indirect [illegible] Exists [illegible] McDonnell-Douglas v. Green, 411 U.S. 792 (1973). decisions in Texas Dept. of Comm. Affairs v. Burdine, 450 U.S. 248, 254 (1981) and St. Mary's Honor v. Hicks, (1993) [illegible] burden of production [illegible] on the [illegible] prior in Title VII - discrimination [illegible]

cases. The high court held that a plaintiff all discrimination in violation of Title VII, c a prima facie case of discrimination by pres actions by the employer that, if unexplained than not shows discrimination. Accordingly established a three step process as follow

(1) plaintiff must come forth with sufficient establish a prima facie case of discrimination [illegible] a presumption that the employer [illegible]

(2) Once a prima facie case is [illegible] the [illegible]

(3) [illegible] the defendant comes forth with [illegible] the presumption of discrimination [illegible] plaintiff bears the burden of [illegible] proffered reasons for employer's [illegible] discrimination.

Although some courts,[+] see have expressed [illegible] [illegible] that [illegible] See Hicks, supra, and even explicit [illegible] ADEA case, see O'Connor v. Consolidated Coin [illegible] 517 U.S. 308 (1996). Some [illegible] court disagrees McDonnell-Douglas, supra, [illegible] this case, pertaining [illegible] that

+ Wilson v. AAA Plumbing & Heating Corp. 34 F.3d 1024 (11
Mitchell v. World Wide Underwriters Insur. Co., 767 F.2d [illegible]

The prima facie case (step 1) not only permits a factfinder to find discrimination, but a mandatory presumption, which is inevitable, for the employer. The employer however, has rebut this presumption by producing evidence that the employee accepted for a legitimate discriminatory reason. The employee then must prove the employer's reason by showing a pretext for discrimination. [illegible]

A prima facie case creates a presumption [illegible] an employee [illegible] in support an inference of [illegible] "a closed connection between [illegible] and the illegal discrimination" See a connection against racial [illegible] a prima facie case [illegible] and thus only requires [illegible]

[illegible] Hence courts have rejected that [illegible] contention [illegible] a prima [illegible] framework, creates a discrimination [illegible] Simply a case which [illegible]

or similar result. NOT SO. The conflict is that it creates an "uneven playing field" + appellant is more or less likely to prevail depending on which circuit sees his case. It is because depending on which framework is [illegible] [illegible] courts may be induced to [illegible] a panel (rather than employing) [illegible] [illegible] (Comer). And that "the purpose not to make [illegible] [illegible] Arizona to [illegible] [illegible] based on [illegible] Comer, 517 at 32. [illegible] 326 [illegible] and [illegible] [illegible] is clearly [illegible]

(a) Some courts [illegible] alone [illegible] case [illegible] Denson v. Swaco Leasing Co., 941 F.2d [illegible] McCleskey v. United States, 25[illegible] F.2d 512 (10th Cir. 1938) and Gloss v. Philadelphia, 188 (3rd Cir. 1944)

(c) First look, perhaps most (especially following the
It is clearly obvious that stabilized evidence
not is it applicable to this case.
(b) Some courts, as did the Dasmit Co
use a 3-step framework as follows: pla
[illegible]
[illegible] Jones v. Bresse
Mid. Cir, 1F.3d 1306 11th Cir (in 1998), Little v. United Technologies, 103 F.3d 959 11th Cir. 1
Valdez v. San Antonio Chamber of Commerce, 97.
[illegible] Conclusions
[illegible]
[illegible]
[illegible]

Hunter V. Allis Chalmers, Corp. Div., 797 F. 2d 1417

O'neal V. Ferguson Construction Co., 237 F. 2d 1268.

Roseboro V. Garrison, 528 F. 2d 301; 30 Cal.

Wilson V. AAA Plumbing [illegible]

[illegible]

[illegible]

[

Anderson v. City of Bessemer City, 470 U.S. 1564 84 L. Ed. 2d 518 (1985)

U.S. v. U.S. Gypsum Co., 333 U.S. 364, 68 S.Ct (1948).

Nelson v. [illegible] 758 F.2d 584 [illegible] 53 FEP

[illegible] v. [illegible] Co., 30 F.2d [illegible] 1015

[illegible] v. United Airlines Corporation, 7 [illegible]

[illegible]

[illegible] v. [illegible], 91 F.3d

[illegible] v. City of Minneapolis, 211 F.3d

[illegible] v. [illegible] 120 F.

[illegible] Corp., 158 F.2d [illegible]

[illegible] v. Board of Trustees of the University (Ky. [illegible])

[illegible] v. [illegible] Co.

[illegible] v. [illegible]

(c) Some courts, perhaps most (especially following the H
use a 4-part framework as follows: (1)
member of a protected class (2) he was sufficiently
satisfactorily (3) suffered an adverse action and (4)
different than similarly situated employees
a sight disparate treatment standard. Compare
Chiang v. Univ. of Cal. Davis, 225 F.3d 1115 (9th
, Talley v. Bravo Pizza
1241 (6th Cir. 1995) Wrobel v. State of
Illinois Dept. 66 F.3d 127 (8th Cir. 1995),
v. Glenbrook Security Services[2], 123 F.3d 438

footnote

business setting. Whatever, the McDonnell-Douglas
framework was adopted to aid
using indirect evidence, there is —.
In this case, and using this 4-part framework
that he established a prima facie case as follows
if a black man and thus a member of the protected
he performed his job not meeting Sheriff's
His explanation performance is sufficient that he

and was given an Ewa Rule (62). He also was never never Clu-Klux'd and never warned for any abhorren
3) He suffered numerous adverse actions commenci
Hitler-ism on April 13, 1990. ... including Smith
Among other things, the Evidence, in this case, s
several instances Sam Nguyen ~~and Jim Hayes~~, (
at home while [illegible] and eventually a
having lost or stolen company packages he was
the night before. Each time he called, he threatened
only to call back later and [illegible]
[illegible] and he will never report [illegible]. Similarly,
did the same thing except in these instances [illegible]
[illegible]. Therefore, [illegible] to recog
an identifiable nexus between these two images and
to call the police on a whim.

[illegible] on February 19, 1
called the [illegible] to [illegible] and
Dr. Jane Smith or the Edgewood [illegible]
with each [illegible] 12 and 3 minutes respectively. [illegible]
[illegible] perhaps through divine admonition, that
[illegible] some one from [illegible] called
[illegible], reporting a company van stolen and
[illegible]. That the description of the van and driver
perhaps, [illegible] placed. Further
[illegible] that perhaps was the [illegible] courier
at that time of day [illegible]

only possible target. [illegible]
Recognizing that seldom in those instances will
'eye witness', especially at that time of the nig
is left to prove such a material fact using indir
Burdine, 450 U.S. [illegible]). Accordingly, in order for a fact
that 'Some one else' placed these calls to the
[illegible]
alia, said factfinder must also assume the fo
[illegible] this 'Some one else' must know that pe
respondent's company, secondly, 'some one else'
move and shift [illegible] times. Thirdly, 'Som
knows [illegible] "[illegible]
[illegible] rather than an independent com
their own non-company vehicle. Then, because
placed on Wednesdays when petitioner works [illegible]
[illegible] must also know
these calls were [illegible] placed at times when
[illegible] stations, 'Someone else' must also know
[illegible] petitioner [illegible] locations. Other
direct calls to petitioner complained [illegible]
in the normal course of respondent's business is
[illegible] 2), 'Some one else' [illegible]
[illegible] trace petitioner's [illegible]
'Someone else' must arrive at respondent's [illegible] lo
petitioner [illegible] at 8:30 p.m. Then 'Some else' would
petitioner completes all his pre-route preparation

BEST AVA

van. Then, "someone else", would have had to follow his stop in Durham / RTP, then back to the car because petitioner has to wait for anywhere between one 2 hours for other comrades to bring him his 'rent. "Someone else" would have to wait also. Then, "someone" had to follow petitioner and wait until he made one delivery in Rocky Mount, then Wilson, then Tarboro (Edgecombe County), then re-fuel, then the car's location. All told, over 300 miles and 8 hours because petitioner's route varied on mondays and "someone else" would have to have known "someone else" would have had to re-trace petitioner's [illegible] time, after the Greenville stop, "someone" had to follow petitioner to Washington, N.C. All miles and over 8 hours, "someone else" would have to the various times that petitioner arrived at each the question, why would "Someone else" go through trouble? In other words, what is the motive?

Therefore, petitioner submits to this high court, the "Someone else". Respondent made phone calls, and had all the information needed to do so. Respondent had the opportunity. The evidence in this case permissible inference that a reasonable factfinder would point to respondent, that respondent had a racial discrimination. We know that, because the a black man driving a Salem Company van.

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charged description that provides a clearly id nexus between these adverse actions and petitioner but not for those calls placed by respondent and Capt Smith's prejudicial, pinpoint aka, those would not have engaged in the resulting adverse [illegible] and [illegible] actions.

4 That petitioner was [illegible] but respondent's self-conduct [illegible] [illegible]. More poignantly, respondent's [illegible] case about [illegible] similarly situated [illegible] and cum the same or similar adverse actions.

(B) The pervasive nature and severity of the [illegible] case, warrants the question, what do when faced with such conduct in the workplace that when the workplace is permeated with intimidation, [illegible] severe or [illegible] the conditions of victim's employment, [illegible]. See Harris v. Forklift Systems, Inc., 5 we also know that "Title VII bars conduct [illegible] seriously affect a reasonable person's [illegible] but that the [illegible] is not limited to such Harris, Ibid.

Recognizing the inherent [illegible] in respondent's [illegible] on a date Nov. 16, 1998, filed

Sam Nehm and Jim Hoyle, the two highest ranking officers, learned that no meaningful ~~steps~~ were taken to stop these actions. Therefore, on or about he again filed a complaint with the North Carolina Labor. The sworn testimony shows that [illegible] this complaint, but nothing [illegible] about [illegible] and a [illegible] on February [illegible] [illegible] RACE [illegible] [illegible] that some [illegible] (as in the [illegible] ethnic or [illegible] 1/13, 1999) petitions [illegible] to get another a [illegible] him to call 911 for help [illegible]

Moreover, these facts show that [illegible] but they were in [illegible] [illegible] [illegible] chance had [illegible] against them. see below Therefore, intentional and [illegible] must be seen as [illegible] negligence or as the [illegible]

Respondent ✗ this awareness and the [illegible] unconcern to stop these [illegible] constitute a causal connection between the adverse actions and petitioner's race, but for petitioner's race, respondents took those actions

(C

Conduct and its results, quite as if they had affirmatively as the employer's policy", See Faro Boca Raton, 524 U.S. 775 (1998). Infact, [illegible]

Inaction, [illegible] respondent's state of mind and con[illegible] [illegible] inference", See Kolstad V. America [illegible] U.S. 5 10 (1999).

(C) Under the McDonnell-Douglas, supra, 3-part [illegible] a prima facie case has been established, the production shifts to the employer to articulate discriminatory reason for its actions. Evidence cited by the employer to explain its decision in a discriminatory manner is specifically relevant. 411 U.S. at 804. In Hicks, this high court [illegible] objectively the defendant (respondent) proffered [illegible] whatever fact to infer the ultimate fact of [illegible] discrimination and ..... [illegible] additional proof required." Id. at 511.

Accordingly, ~~In~~ this case, the sworn evidences [illegible] the time of petitioner's termination, he asked [illegible] he was being terminated. Mr. Hoyle, provided [illegible] to say, that the Corporate Human Resources [illegible] will send a letter to him, stating the reasons [illegible] was received by petitioner. Thereafter, when [illegible]

for unemployment compensation at the N.C. E
Security Commission, he was unable to provide a
he was terminated. In petitioner's interrog
dated October 18, 1999, respondent was ask
reasons for their discriminatory actions, no
question was provided. In petitioner's Sworn
Dec. 1, 1999, he was asked several question
Shipscat several times he was asked to na
respondent's employ and he provided certain
questions accordingly. Thereafter, the Sworn
~~that that~~ that, in their cross-motion for
judgment (Cross-motion) respondent,
for their adverse discriminatory actions, it
was asked to name a town in Grafton
refused to do so. Therefore, he was forced
evidence from the N.C. Dept's. of Revenue
plus an official map of all towns, cities
this state, shows that there is no town
named Grafton, N.C. Therefore, this asse
false. Recognizing the falsity of this a
respondent ~~now~~ contends with the cir
their asserted reason is a "mistake". W
petitioner wonders what is respondent mist
that petitioner was supposed to name a town
but didn't. Or that, Grafton, N.C does
Wherefore, a reasonable factfinder, must find

that respondent's asserted reasons is not b
credence, Fuentes v. Perskie, 32 F.3d 759 (3
is this "merely a pretext for unlawful disc
v. Casio Inc. 42 F.3d 825 (3rd Cir. 1994). A
reasonable fact finder could also conclude the
asserted reason is suspiciously illogical
supra, ... and thus reject it. Such
permit the hiring of facts (fact finder) to
ultimate fact of intentional discrimination
U.S. at 134. Indeed, 'proof that the le
explanation is unworthy of credence, is one
circumstantial evidence that is probative
discrimination', Reeves, Ibid.

Additionally, recognizing that pursuant to the Fourth Circuit
petitioner was required to address specific ci
Evidence and material facts and issues, contained
Court Judgment of March 27, 2008 or point
in Court Judgment, in the District Court's Order
April 12, 1999, plaintiff refused to make a
motion, because he did not know where it was to
not feel comfortable stopping there!! We know that
was also made by respondent and that it is
known that respondent contends that this was
a contract, a reasonable fact finder must
respondent's asserted reason is mere; then the
— 20 —

[illegible] petitioner [illegible] be filed [illegible]
[illegible]

Therefore, petitioner has proceed [illegible] prop[illegible]
[illegible] to waive the cost ~~of this~~ as
petitioner. Rule 43, [illegible]

FRAME

judgment, was likewise, a "mistake" and erroneous". Anderson V. City of Bessemer Ct. 105 S.Ct. 1504 84 L.Ed. 2d 518 (1985). Whereupon along with the order incorrect facts and issues judgment, must leave a reasonable factfinder and definite conviction, that the District Court mistake in the finding of fact" and thus on reversal of the order, see. U.S. V. U.S. Gypsum 364, 68 S.Ct. 525, 92 L.Ed 746 (1948).

(C) The Circuit Court is in violation of Rule 10, in Criminal Law, because he departed from the accepted and usual Judicial proceedings, by denying an en banc rehearing a poll of his members.

In this case, petitioner has numerous presented issues that [illegible] Error, because the decision conflicts with Rule or Precedent but not limited to [illegible] Court [illegible] denying [illegible] Specifically, petitioner has shown that he [illegible] with regards to issue 1, he performed his duties in the [illegible] pet. page __. with regards to his supervisors was white. with regards to issue 8., he filed lawsuit (hand written), on April 12, 1999 along [illegible] priced [illegible] Issues terminated on April 13, [illegible] April 22, 1999.

With regards to issue 7, petitioner's perhaps [illegible] reason for the [illegible] allegation, namely that he [illegible] Gratton, N.C. is false. [illegible] contends that he

With regards to issue 4, petitioner did [illegible] intentional discrimination. Indeed, the ultimate [illegible] determination [illegible] whether the [illegible] The Court [illegible] disregarded evidence favorable to petitioner. Same time [illegible] issues favorable to respondent. Cannot also fail to draw all [illegible] (Rowe phrasing, [illegible] U.S. at 130).

~~The Civil Rights Act of 1991 (1991 Act) [illegible] cases provides for punitive and compensatory damages [illegible]~~ when an employer is [illegible] with intent or reckless indifference, see 1981a. Molnar v. Booth [illegible] See also Kolstad, 527 U.S. at 526. Petitioner [illegible] respondent in this case did intact discriminate with malice [illegible] reckless indifference, see [illegible] He has also shown that a reasonable [illegible] disbelieve that the reasons put forward by [illegible] that such discrimination must also be accepted [illegible]. Therefore such [illegible] his [illegible] case, should [illegible] See Hicks, 509 U.S. at 511

Back pay award is intended to restore an status quo he or she would have enjoyed if the offense had not taken place, See Kirsch v. Fleet 149. The "inevitable corollary" rule of Title VII allows a plaintiff (petitioner) to raise a retaliation, when such issue grows out of Nealon v. Stone, 958 F.2d 584, 590 5th Cir 1992 [illegible]. If there is a finding of adverse action [illegible] and an employee (petitioner) [illegible] generally, the courts [illegible] so that, because petitioner suffered [illegible] while in responsible position, and then [illegible] 1 day after he filed this lawsuit, such [illegible] a retaliation for lawsuit, [illegible]

An employer is vicariously liable for the co-employee's acts if such actions are not [illegible] Gore Corporation, 342 F.2d 1010, 1016 (1988). The [illegible] vicariously liable for actionable discrimination supervisor acting within the scope of his employment ~~[illegible]~~, 524 U.S at 775. And, [illegible] vicariously liable for the actions of its agents [illegible] acting within the scope of his or her [illegible].

~~[illegible]~~ It is [illegible] that courts adopt the

articulated in Kolstad, supra, that an employer is vicariously liable for its managers decisions, where are contrary to the employer's good faith efforts to comply with Title VII. Petitioner contends that, in this case, not make a good faith effort to comply with Title non-discrimination policy or Title VII. Because filed his RACE discrimination charge with the Feb. 2[illegible] was issued on [illegible] 2, 1994, the [illegible] the EEOC informed respondent, that a charge had been filed against him. Yet the [illegible] the adverse actions continued. Infact, respondent held a meeting [illegible] the EEOC for example, after respondent was not race charge, they had discuss it with petitioner they were [illegible] against him because of a. Serving kind that these actions would stop in a reasonable factfinder would ~~have concluded~~ conclude that a good faith effort, But respondent did no such nothing was said [illegible] the race charge [illegible]. Thus a reasonable factfinder would conclude was no good faith, rather respondent acted as was part of their policy, Bad faith.

Wherefore, on the basis of the foregoing petitioner entitled to punitive and compensatory damages, [illegible] an allowance [illegible] Sec 1981a.

(D.) The Circuit Court erred in granting respondent's motion for summary judgment while denying p

Pursuant to F.R. Civ.P Rule 56, summary judgment, is appropriate when there is no genuine issue of any material fact in a case. A Civil [illegible] a motion by a party moving for summary judgment. Therefore, in the case moves at the same time. Summary judgment when issue of [illegible] fact can [illegible] [illegible] [illegible], [illegible] [illegible].

Wherefore, petitioner contends that here a sh[illegible] clear and present disparity, among the vari[illegible] appeals. Specifically, the conflict lies in th[illegible] burden of the movant in relation to a particular expectation. "Thus the Courts of Appeal have a[illegible] articulated different formulations as to what should consider in ruling on Rule 56." (Quoting at 149, since Rule 56 mirrors Rule 50).

In this case, the focus of the disparity is the version "pretext-plus"[4] standards used by the Co[illegible] judgment motion under Title VII, disparate tr[illegible]. This high court, in HICKS, supra, made clear fact finders do believe the defendant's proof [illegible] to support a plaintiff's verdict. Relia[illegible]

4. ALI IAKA, REFERENCE: EMPLOYMENT DISCRIMINATION AND CIVIL RIGHTS AND STATE CONTRACTS, VOL. II, 1995

must show that the asserted reasons are false
real reason is discrimination. The circuit courts
divided on the issue of what quantum of ev
put forth by a plaintiff not only to avoid summ
also to prevail, ~~[illegible]~~

(a) Some circuit courts use the "pretext-only" stan
~~[illegible]~~ a plaintiff to establish a prima facie ca
the employer's proffered reasons are false or
[illegible] mere conjecture, and therefore
[illegible] with the Hicks, supra decision. Compare an
Torre v. Casio, Inc., 42 F.3d 825 (3rd Cir. 1
v. City of Fort Wayne, Ind., 91 F.3d 922 (7th
Basset v. City of Minneapolis, 211 F.3d 1097
~~(4th Cir. 1986)~~ and Stewart v. Rutgers, The S
426 (3rd Cir. 1997).

b. Other courts, require a more substantial
plaintiff's part, by requiring that the pla
establish a prima facie case, then demonstr
the employer's reasons are false or unwo
and then show that the real reasons are
— this is the "pretext-plus" standard. T
standard relies on the premise that the plaintiff
ultimate burden of persuasion at all times, it i
with the Hicks supra decision. Compare and Co

v. Xerox Corp., 18 F. 2d 836 (1st Cir. 1994), Trustees of the Univ. of Alabama, 91 F. 3d 1449 (11 LeBlanc v. Great American Insurance Co., Cir. 1993) and Villanueva v. Wellesley College Cir.).

In this case, petitioner contends that respondent crossed motions, bears the same burden of he does. Further more, it is also important because, respondent crossed, they cannot "non-moving party", so that, the District Court that "when making the summary judgment the facts and all reasonable inferences must be read most favorable to the non-moving party error. It is also important to note that Rule requires an affidavit.

Furthermore, the Court assertion that [illegible] produce di[illegible]. The employer stated purpose to disc[illegible] basis of race, which is or [illegible] a general [illegible] "material facts", see A-7, is in with the decision in Hicks, supra. It is therefore this standard is a pretext-only or a pretext-[illegible], if that petitioner produced a lawful case. Recognizing that pursuant to rule 401, fe[illegible] "a evidence having a tendency to

existence of any fact or issue that is of consequence to the determination of the action more probable or less probable than it otherwise would be, is probative.

Accordingly, plaintiff posited sworn interrogatories, sworn depositions, affidavits to motions and exhibits all in support of his case. Specifically, he produced a copy of the phone record indicating the date, time and telephone number of the [illegible] [illegible] B, 1999 [illegible] N.C.

Therefore, plaintiff has met his burden to compel [illegible] Title VII [illegible] Harris, 510 U.S. 17, O'Connor, 517 U.S. 308, Faragher, 524 U.S. 775, Kolstad, 527 U.S. 526 and Reeves, 530 U.S. 133. All five cases reversed. Particularly noteworthy is the Court's own admonition in O'Connor, Ibid., to the lower courts, to consider cases where there may be "very thin evidence". Such is not the case [illegible] because plaintiff's pleadings provided a wealth of probative evidence. Respondent did not produce any, not even [illegible]. Wherefore, this case merits reversal.

Letter to Clerk of Court

Clerk U.S. Supreme Court

(xiii) Conclusion

~~No other~~ Civil case, ~~perhaps~~ in the ~~entire history of America~~ all ~~jurisprudence merits review~~ and endorsed as does ~~this one~~. Therefore, for all the foregoing reasons, petitioner respectfully, begs this high court to grant this petition for writ of certiorari

Respectfully submitted,

This the ___ of May, in the year of our Lord, 2011.

Signed: _____

petitioner, pro se.